

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Glenn Brown	Team: Squad #11	CCRB Case #: 201409865	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/17/2014 11:44 PM	Location of Incident: 7th Avenue and West 122nd Street; Inside the 28th Precinct stationhouse	Precinct: 28	18 Mo. SOL 3/17/2016	EO SOL 3/17/2016	
Date/Time CV Reported Thu, 09/18/2014 2:30 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 09/25/2014 1:39 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DTS Jesus Capo	01906	926640	028 PCT
2. SGT Joel Edwards	03692	936544	028 PCT
3. Officers			028 PCT
4. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Duffy	27097	948329	028 PCT
2. LT Princess Princemccoad	00000	926436	028 PCT
3. POM Bradley Field	30276	932640	028 PCT
4. POM Bradley Kucyk	14955	947144	028 PCT
5. POM Ramon Polanco	07055	947940	028 PCT
6. POM James Hughes	08693	906485	028 PCT
7. POM Claudio Luperon	12509	936996	028 PCT
8. POM Otilio Penacabreja	09184	944241	028 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DTS Jesus Capo	Force: At West 122nd Street and 7th Avenue in Manhattan, Det. Jesus Capo used physical force against § 87(2)(b)	
B.SGT Joel Edwards	Off. Language: At West 122nd Street and 7th Avenue in Manhattan, Sgt. Joel Edwards made remarks to § 87(2)(b) based upon race.	
C.SGT Joel Edwards	Discourtesy: At West 122nd Street and 7th Avenue in Manhattan, Sgt. Joel Edwards spoke discourteously to § 87(2)(b)	
D.SGT Joel Edwards	Force: At West 122nd Street and 7th Avenue in Manhattan, Sgt. Joel Edwards used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
E. Officers	Force: At West 122nd Street and 7th Avenue in Manhattan and the 28th Precinct station house, officers used physical force against § 87(2)(b) and § 87(2)(b)	
F.DTS Jesus Capo	Force: At West 122nd Street and 7th Avenue in Manhattan, Det. Jesus Capo used pepper spray against § 87(2)(b)	
G. An officer	Discourtesy: At the 28th Precinct station house, an officer spoke discourteously to § 87(2)(b)	
H. An officer	Abuse: At the 28th Precinct station house, an officer did not obtain medical treatment for § 87(2)(b)	

### Case Summary

On September 17, 2014, at approximately 11:44pm, § 87(2)(b) was standing outside West 122<sup>nd</sup> Street at 7<sup>th</sup> Avenue with her friends § 87(2)(b) and § 87(2)(b) when they saw officers from the 28<sup>th</sup> Precinct apprehend § 87(2)(b) who had been observed in a hand-to-hand transaction. Det. Jesus Capo allegedly punched § 87(2)(b) (**Allegation A**). Sgt. Joel Edwards allegedly used offensive language and spoke discourteously to § 87(2)(b) (**Allegation B** and **Allegation C**). Sgt. Edwards then allegedly punched § 87(2)(b) in the face (**Allegation D**) and a fight broke out between civilians and officers, in which force was allegedly used against § 87(2)(b) and § 87(2)(b) as they were apprehended, and the force allegedly continued while they were at the 28<sup>th</sup> Precinct station house (**Allegation E**). Det. Capo allegedly pepper-sprayed § 87(2)(b) when he was inside of a police vehicle, attempting to kick out the windows (**Allegation F**). An officer allegedly used discourteous language with § 87(2)(b) at the station house (**Allegation G**) and an officer allegedly refused to provide him with medical treatment (**Allegation H**). There were two usable videos related to this incident (a blurry video was provided that is almost a duplicate of one of the two videos referred to in this incident) (encl. 6a-c)

### Mediation, Civil, and Criminal Histories

This case was not eligible for mediation. A Notice of Claim was not filed regarding this incident (encl. [§ 87(2)(t) [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

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### Civilian and Officer Histories

- This is the first complaint filed by § 87(2)(b) and involving § 87(2)(b) (encl. 1d-e).
- Det. Capo has been a member of the service for 14 years and has been a subject officer in ten cases. In case 200510189, he had an allegation of a refusal to provide his name/shield allegation substantiated against him. The CCRB recommended charges, and the NYPD issued instructions (encl. 1a-b).
- Sgt. Joel Edwards has been on the force for ten years. In addition to this case, he has been a subject in two truncated investigations (encl. 1c).

### Findings and Recommendations

#### Explanation of Subject Officer Identification

§ 87(2)(b) stated that Sgt. Edwards approached him with 9 uniformed and plainclothes white, black, and Hispanic male officers he could not describe further, and that multiple officers took him to the ground. § 87(2)(b) did not see PO Duffy or Det. Capo on the ground and could only assume their involvement. § 87(2)(b) could not tell which officer was punching or kicking him, or how many. § 87(2)(b) stated that when he refused to enter the RMP, an officer who § 87(2)(b) could not identify or describe held the rear passenger door of the police vehicle and slammed it. § 87(2)(b) stated that at the station house, he was punched and pulled to the floor near the desk by a “bunch of officers,” none of whom he could describe. § 87(2)(b) also could not describe the officers who allegedly used force with § 87(2)(b) other than an unidentified white male who

she believed was in the original vehicle with Det. Capo and PO Duffy, the white male she believed cursed at § 87(2)(b) and Sgt. Edwards. There was no additional officer in that vehicle, however.

§ 87(2)(b) stated that only one officer used force against her when she was being apprehended, and then a second officer was responsible after this, but the video shows she is surrounded by multiple officers when this force was allegedly being used. § 87(2)(b) stated that she was kicked when she was on the ground in between police vehicles. § 87(2)(b) could not tell which officer did this or how many because they were behind her at the time, but believed there were three or four officers responsible. § 87(2)(b) stated that when she was brought into the station house, multiple officers whose names she provided, including Lt. Prince-McCoade, PO Field, and PO Pena-Cabreja, used force against her. However, Lt. Prince-McCoade had not started at the desk yet, which is confirmed by the Command Log entry. Furthermore, PO Field and PO Pena-Cabreja did not arrive at the station house until hours after § 87(2)(b) was brought in, as they were responsible for handcuffing her when she was being EDP'd to the hospital. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

The police documentation for this incident shows that numerous officers responded to the scene over the radio, and the video confirms that more officers arrived, likely because the call for assistance had screaming in the background. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

None of the officers admitted to participating in or witnessing the force alleged. § 87(2)(g)

§ 87(2)(g)

#### **Allegations not Pleaded**

- **Discourtesy** The video captures Sgt. Edwards saying to a police vehicle, “He’s kicking out the window, get him the fuck out of here!” when § 87(2)(b) was kicking from inside the police car. Sgt. Edwards acknowledged he said this to officers. No civilians alleged that Sgt. Edwards made this statement. § 87(2)(g)
- **Force:** § 87(2)(b) stated that he felt blows to his legs that he believed were from nightsticks, although he never saw them and § 87(2)(b) never saw officers use nightsticks. Det. Capo stated that after he broke his hand, he used an asp against § 87(2)(b) who was uncooperative with the investigation, and there are no statements that one was used against him and the video does not show this. § 87(2)(g)

#### **Allegation A: Force: At West 122nd Street and 7th Avenue in Manhattan, Det. Jesus Capo used physical force against § 87(2)(b)**

§ 87(2)(b) stated that she was standing on the sidewalk with friends when she saw Det. Jesus Capo and PO Michael Duffy of the 28<sup>th</sup> Precinct exit an unmarked, champagne-colored Impala and run towards § 87(2)(b) whose back was to them and who was walking at a normal pace. Det. Capo said, “Hey, hey, you!” § 87(2)(b) turned around and Det. Capo punched § 87(2)(b) square in the front of his face, and § 87(2)(b) fell backward onto the ground, landing on his side. Det. Capo and PO Duffy both said, “Spit the crack out. Spit the crack out.”

§ 87(2)(b) never saw anything in § 87(2)(b)'s mouth and never saw him spit anything out (encl. 5a-h). § 87(2)(b)'s statement was consistent about the first punch, although he stated that when § 87(2)(b) was on the ground, officers punched § 87(2)(b) in the face, although he could not recall which officers did this (encl. 4a-h). § 87(2)(b) was unavailable with the investigation (encl. 20a). None of the videos captured Det. Capo punching § 87(2)(b) nor does it capture multiple officers punching him while on the ground. However, in the first video, Det. Capo and PO Duffy are seen standing over § 87(2)(b) and numerous civilians are yelling about the fact that “they” punched him for no reason.

Det. Capo stated that after observing a small object exchanged for currency, the officers decided to stop the men. Det. Capo approached the buyer, said, “Police!” and went to grab § 87(2)(b) by the shoulder from behind, and § 87(2)(b) continued walking. There was a struggle, although Det. Capo could not recall the details, and both Det. Capo and § 87(2)(b) went to the ground. § 87(2)(b) might have fallen on his knee. Det. Capo had § 87(2)(b) on his leg. Det. Capo could not recall if PO Duffy assisted in bringing § 87(2)(b) to the ground. § 87(2)(b) was “pissed” and using derogatory words and cursing, but Det. Capo could not recall what he was saying. § 87(2)(b) was placed into handcuffs. Because Det. Capo could not recall the details of what happened, he could not recall if he punched § 87(2)(b) in the face. It might have happened, in an attempt to grab § 87(2)(b) and take him to the ground, but Det. Capo did not recall what happened during that arrest. Det. Capo explained that when there is a struggle, it’s possible that someone gets punched in the head. But because he could not recall the details of this apprehension, he could not recall what would have been going where a punch could have occurred. Hearing the civilians in the first video say repeatedly that the man on the ground had been punched in the face did not refresh Det. Capo’s memory about whether or not he punched § 87(2)(b) (encl. 8a-g). Although Det. Capo did break his hand during the incident, it is not until later, and the moment is likely captured on the video (see Allegation E).

PO Duffy stated that § 87(2)(b) ran approximately four steps before Det. Capo tackled § 87(2)(b). PO Duffy was not certain if he himself assisted with taking § 87(2)(b) to the ground or if he just assisted in handcuffing him. PO Duffy could not recall if Det. Capo punched § 87(2)(b). § 87(2)(b) did not physically resist after being brought to the ground and he was handcuffed. § 87(2)(b) was brought to the ground because the officers did not know if he had a weapon as he ran from the officers and he was engaged in a drug transaction. PO Duffy assumed when the crowd in the video stated that § 87(2)(b) was punched, they were referring to when Det. Capo tackled § 87(2)(b) but he did not know for certain (encl. 9y-bb).

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Patrol Guide Procedure 203-11 states that a minimal amount of force should be used to effect an arrest (encl. 0a-b).

§ 87(2)(g)

**Allegation B: Offensive Language: At West 122nd Street and 7th Avenue in Manhattan, Sgt. Joel Edwards made remarks to § 87(2)(b) based upon race.**

§ 87(2)(b) stated that Sgt. Joel Edwards approached the unmarked black Impala and said to the officer inside, “Do you want to get this nigger?” § 87(2)(b) believed that this was in reference to § 87(2)(b) because § 87(2)(b) was the most vocal of the civilians telling the officers that they were wrong. § 87(2)(b) did not allege this. All of the officers interviewed denied making or hearing Sgt. Edwards make this statement. § 87(2)(g)

**Allegation C: Discourtesy: At West 122nd Street and 7th Avenue in Manhattan, Sgt. Joel Edwards spoke discourteously to § 87(2)(b)**

§ 87(2)(b) stated that Sgt. Edwards came from in between the double-parked cars and began arguing with § 87(2)(b) Sgt. Edwards and § 87(2)(b) each exchanged words to the effect of, “Fuck you,” and, “Suck my dick.” § 87(2)(b) did not state this happened, but instead stated that an unidentified white male officer said, “Suck my dick. Tell your wife to suck my dick.” The video does capture § 87(2)(b) saying, “You tell your woman suck a dick, motherfucker,” but it does not capture any officers saying any iteration of the alleged statements, although the video ends shortly after Sgt. Edwards approaches § 87(2)(b) § 87(2)(g)

**Allegation D: Force: At West 122nd Street and 7th Avenue in Manhattan, Sgt. Joel Edwards used physical force against § 87(2)(b)**

**Allegation E: Force: At West 122nd Street and 7th Avenue in Manhattan and the 28th Precinct station house, officers used physical force against § 87(2)(b) and § 87(2)(b)**

§ 87(2)(b) stated that when Sgt. Edwards approached § 87(2)(b) with nine unidentified officers and asked, “Do you want a problem?” § 87(2)(b) countered with the same question. Sgt. Edwards allegedly struck him in the nose with a closed fist and multiple officers then jumped on § 87(2)(b) and brought him to the ground. The officers held him by his legs, upper body, and hands and punched § 87(2)(b) in his face and chest and kicked him in his back and “everywhere on his body.” Prior to being handcuffed, § 87(2)(b) felt nightstick blows to his legs, but he did not see the nightstick, did not know how many officers struck him or how many times he was struck. § 87(2)(b) acknowledged that he was refusing to be arrested and repeatedly tried to pull his arms forward and hold them tightly in front of his body to avoid being handcuffed. § 87(2)(b) also admitted that he refused to be placed in the backseat of the RMP. When § 87(2)(b) was half inside the vehicle with his right foot on the ground outside the RMP, an unidentified officer held the rear passenger door of the police vehicle and at least five or six times slammed it on his right leg until § 87(2)(b) entered the vehicle. § 87(2)(b) tilted onto his left side for leverage and began kicking the rear passenger door of the RMP. At the 28<sup>th</sup> Precinct station house, § 87(2)(b) was

also punched repeatedly “everywhere on his body” by a “bunch of officers,” none of whom he could describe, at the front desk, who pulled him down to the floor.

§ 87(2)(b) stated that approximately 10 to 12 officers, including the white male who allegedly cursed at § 87(2)(b) Sgt. Edwards, and a white male plainclothes officer she believed was in the same car as Det. Capo and PO Duffy, rushed towards § 87(2)(b) and began beating him. § 87(2)(b) never saw any officers strike him with nightsticks. § 87(2)(b) never saw any officers with nightsticks drawn. § 87(2)(b) stated that when § 87(2)(b) tried to intervene in her arrest, multiple officers punched him in the stomach. § 87(2)(b) was uncooperative with the investigation (encl. 20a) and this force is not captured on the video.

The second video merely captures a large group of officers struggling, presumably with someone underneath them, who is assumed to be § 87(2)(b). At 26 seconds into the video, an officer in uniform, who otherwise could not be identified, is seen raising his elbow back § 87(2)(g). § 87(2)(b) the video remains inconclusive about what is happening and none of the force allegations are captured. § 87(2)(b) being placed into the vehicle is not captured until § 87(2)(b) is heard kicking at the windows, and an unidentified officer who is too blurry to see opens the door.

Sgt. Edwards stated that because § 87(2)(b) was saying “Fuck you guys. You guys are pieces of shit. Suck my dick. If you fucking arrest me, I’ll show you what will fucking happen to you guys. I’ll fuck you guys up,” was banging on the patrol vehicle, and refused to disperse after being told to leave more than two times, Sgt. Edwards decided to arrest § 87(2)(b) for disorderly conduct. § 87(2)(b) told Sgt. Edwards, “I will fuck you up.” Sgt. Edwards reached his hand toward § 87(2)(b) and § 87(2)(b) began to swing his fists at Sgt. Edwards. Det. Capo and PO Duffy were with Sgt. Edwards, but he did not know who the other officers were who were assisting. Sgt. Edwards ducked and § 87(2)(b) punched at him again, striking Sgt. Edwards in the face. Other officers approached to assist in arresting § 87(2)(b) and he began punching toward these officers. § 87(2)(b) and the other officers fell to the ground. He did not punch or see officers punch § 87(2)(b). Sgt. Edwards did not see any officer slam a door on § 87(2)(b)’s leg and he did not do so himself (encl. 16a-g).

Det. Capo stated he was at the police vehicle when the brawl erupted. There was so much going on and so many groups struggling that Det. Capo could not see exactly what Sgt. Edwards was doing. Det. Capo came from the rear to try to assist. Det. Capo could not recall what he was doing to assist when he broke his right hand. He felt something snap in his right hand and it was clicking and didn’t feel right. At that point, Det. Capo borrowed an asp from another officer, although he did not recall which officer, because his hand was broken. Det. Capo struck a male who was not § 87(2)(b) identified as § 87(2)(b) in the leg. After viewing the second video, at 39 seconds into the video, Det. Capo is seen looking at his right knuckle, which he confirmed was the moment that he had broken his hand (encl. 18i-w).

The first time that PO Duffy had any physical contact with § 87(2)(b) was when § 87(2)(b) was already on the ground. § 87(2)(b) was kicking his legs and pulling his arms away. PO Duffy identified himself in the video at :32 at the top left. He did not know where he was making contact with § 87(2)(b) but he speculated he was on his arm.

When PO Kucyk was at a vehicle, he looked back and saw Sgt. Edwards and § 87(2)(b) who had been yelling and instigating the crowd and got very close to Sgt. Edwards, fighting with each other with punches and fists, although it was difficult for PO Kucyk to see who was punching whom. PO Kucyk approached Det. Capo, who was trying to apprehend § 87(2)(b) who was bigger than he was. PO Kucyk tried to place § 87(2)(b)'s arms behind his back, but he yanked his arms all over the place and kicked his legs. Det. Capo hurt his hand during the altercation, but PO Kucyk did not know or see how. At some point, Det. Capo told PO Kucyk that he had punched someone, but PO Kucyk did not remember seeing this. The group of officers trying to handcuff § 87(2)(b) were not making any progress, so PO Kucyk recalled assisting by placing his shin on § 87(2)(b)'s leg to stop him from kicking (encl. 17a-h).

PO Polanco assisted with the scuffle, but he did not recall what actions he took. He identified himself in the video as one of the officers involved with § 87(2)(b) and he thought it was possible that he was bringing one of § 87(2)(b)'s arms behind his back, but he did not recall striking § 87(2)(b). PO Polanco and PO Hughes transported a calm male identified as § 87(2)(b). PO Polanco did not spend any time in front of the desk with § 87(2)(b). PO Polanco did not recall seeing any of the other three arrestees at the stationhouse (encl. 10a-f). PO Hughes also could not recall whether he brought § 87(2)(b) in front of the desk. He did not assist with the arrest processing or finger print any of the arrestees while at the stationhouse. PO Hughes stated that in the video he was always seen by the police car he was driving (encl. 14a-h).

All of the officers interviewed denied using the force as alleged by § 87(2)(b).

§ 87(2)(b) stated that a single officer threw her to the ground, kicked her in the face, dragged her on the ground, picked her up, threw her against the storefront, and then another officer assisted in putting her in handcuffs, at which point a different officer began dragging her on her knees to the street. § 87(2)(b) denied going limp. § 87(2)(b) admitted that she refused to enter the police car, and told the officers to lift her up so that she could sit in the vehicle on her own. Eventually she was lifted and thrown into the vehicle. § 87(2)(b) did not allege that she was kicked as she was being put into the vehicle. § 87(2)(b) stated that he saw multiple officers, he could not tell how many, hitting § 87(2)(b). § 87(2)(b) also saw multiple officers slam § 87(2)(b) against the gate on the storefront. § 87(2)(b) stated he saw them punch her in her stomach.

The second video shows § 87(2)(b) is consistently surrounded by multiple officers. She is seen pulling her arms away from an officer trying to place her in handcuffs and she pulls away and is then surrounded by a group. The next time she is seen, she is on the ground on her side, surrounded by a group of uniformed and plainclothes officers. She is next seen standing, slapping at officers, and continuing to pull herself away from multiple officers, who then push her against the storefront. She is then seen walked to the street in handcuffs. The next time she is seen is when § 87(2)(b) is trying to kick out the windows of the police vehicle, and she is on her knees and officers are trying to lift her to standing. Instead, she begins walking on her knees in between the parked police vehicles. She is then obscured, and when she is seen again, she is on her knees on the ground, and officers are unsuccessfully trying to pick her up, but she goes limp. Officers then try to place her into the police car, but she refuses to enter. When it appears she is almost in, PO Kucyk is seen moving his foot towards where she presumably is in a pushing movement (encl. 6a-c for transcription).



Although PO Kucyk did not recall the details of § 87(2)(b) being placed into the vehicle, when he saw the video, PO Kucyk clarified that he attempted to quickly pick her leg up with his leg, but § 87(2)(b) then entered the car. He reiterated that he did not kick her.

PO Duffy stated that § 87(2)(b) grabbed officers' arms and pulled them from § 87(2)(b) and attempted to push officers away from § 87(2)(b). PO Duffy did not assist with her arrest.

Sgt. Edwards stated that when he was on the ground with § 87(2)(b), § 87(2)(b) grabbed Sgt. Edwards's shirt and arms to pull him away. Sgt. Edwards observed § 87(2)(b) and § 87(2)(b) in handcuffs and in a vehicle, but he was not involved in arresting these individuals. Sgt. Edwards did not see anyone punch § 87(2)(b) in the stomach or kick her in the face.

PO Luperon stated that when he and PO Danielle Hankerson arrived at the scene, the civilians were already in handcuffs and he did not have physical contact with any of them (encl. 15a-g).

None of the officers interviewed stated that they used the force as alleged by § 87(2)(b) at the scene of her apprehension.

When § 87(2)(b) arrived at the stationhouse, as she was being walked to the front desk, officers repeatedly pushed and shoved her from behind, and kicked and punched her in the face, back, neck, legs, and arms as they walked by. § 87(2)(b) stated that a female officer tried to intervene and take her away, but Lt. Prince-McCoadé told the officer to go back on patrol. Then approximately ten officers pushed her to the ground, stood on her back, calves, and ankles, and stepped on her neck. § 87(2)(b) stated that § 87(2)(b) was brought into the stationhouse a few minutes after he was. There were five or six uniformed police officers kicking her in her face and her chest. § 87(2)(b) was yelling and screaming while on her knees. He did not see how she ended up on her knees, and did not state that officers stood on her or that he saw her prone on the ground.

§ 87(2)(b) stated that Lt. Prince-McCoadé then escorted her to the fingerprinting room with an unidentified Indian male officer, who allegedly grabbed her head and slammed it against the brick wall inside the fingerprinting room, twice.

Lt. Prince-McCoadé stated that when she walked down the stairs at the 28<sup>th</sup> Precinct station house to begin her assignment as the desk officer, she heard screaming at the front desk, but decided to allow the desk officer who was still on duty to take care of the situation, and did not get to the desk until the commotion ended. Once Lt. Prince-McCoadé was on the desk, she could hear § 87(2)(b) yell from the holding cells, approximately 8 feet from the desk, that she did not want any male officer or Hispanic officers to touch her to remove her handcuffs. Lt. Prince-McCoadé did not recall who fingerprinted § 87(2)(b) but denied witnessing any force used against her. After § 87(2)(b) first received medical attention, she continued to yell and called Lt. Prince-McCoadé a "fat bitch." Lt. Prince-McCoadé sat at the front desk, continuing her desk duties, and ignored § 87(2)(b). § 87(2)(b) continued to yell, and she began spitting from the cell. Because of her behavior, Lt. Prince-McCoadé had § 87(2)(b) removed to the hospital as an EDP (encl. 12a-e).

A supervisor instructed PO Field and PO Jackson to return to the 28<sup>th</sup> Precinct stationhouse to transport § 87(2)(b) to the hospital, at approximately 4:50am. § 87(2)(b) was screaming and refused to allow PO Pena-Cabreja to handcuff her and spit on him. PO Field and about two or

three officers handcuffed § 87(2)(b). He did not recall whether PO Jackson assisted. PO Field grabbed § 87(2)(b)'s arm and pulled it behind her back. Once she was handcuffed, PO Field transported § 87(2)(b) to § 87(2)(b). § 87(2)(b) refused medical treatment once at the hospital because she was sent for a psychological evaluation, and typically, prisoners must be medically cleared before being sent for their psychosocial evaluation (encl. 11a-g). PO Pena-Cabreja did not recall this incident (encl. 13a-f).

Det. Capo stated that when he was at the 28<sup>th</sup> Precinct station house, there was some sort of commotion in front of the desk with civilians who were being processed, but he could not recall what specifically the civilians were doing or if they were in handcuffs or which officers were with the civilians. Det. Capo had no interaction with the civilians at the station house, and went to the office and spoke with his supervisor and went to the hospital. PO Duffy, Sgt. Edwards, and PO Luperon stated that at the desk, § 87(2)(b) and § 87(2)(b) were still screaming and yelling. PO Kucyk did not interact with any of the arrested individuals at the stationhouse and he did not recall seeing them being brought to the front desk.

All of the officers interviewed denied using or witnessing any force used against § 87(2)(b) or § 87(2)(b) at the station house.

Among § 87(2)(b)'s charges for this incident was assaulting a police officer, for punching Sgt. Edwards (encl. 9l-n).

§ 87(2)(b)'s medical records noted that the first time she went to the hospital, her breath smelled like alcohol, and although she stated that she was kicked in the face by an officer, no injuries, swelling, or bruises were observed. She also stated she had back pain. When she returned to the hospital, she added that she lost consciousness as well. The pre-arraignment screening form for § 87(2)(b) stated that he had abrasions to his hands and face. (see blue medical file). There are no visible injuries in their arrest photos (encl. 7a-b).

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

**Allegation F: Force: At West 122nd Street and 7th Avenue in Manhattan, Det. Jesus Capo used pepper spray against § 87(2)(b)**

§ 87(2)(b) stated that once he was inside the police vehicle and began kicking the rear passenger door, Det. Capo stuck his hand in through the open window while holding a canister of pepper spray. He sprayed § 87(2)(b) in his face. § 87(2)(b) could not estimate how far away from his face Det. Capo held the canister of pepper spray. The pepper spray made contact with § 87(2)(b)'s face. § 87(2)(b) became more enraged. § 87(2)(b)'s vision was not obscured by the pepper spray. The skin on § 87(2)(b)'s face burned from the pepper spray. § 87(2)(b) was driven to the 28<sup>th</sup> Precinct stationhouse in that same vehicle. § 87(2)(b) did not remember which officers drove him back. Although § 87(2)(b)'s eyes look slightly bloodshot in his arrest photo (encl. 7a), they are even more bloodshot in the photo taken at the CCRB at the time of his interview (encl. 4h) and is not the result of pepper spray.

Det. Capo denied pepper-spraying § 87(2)(b) in the vehicle and none of the officers stated that they saw him do so, nor did any officers admit to doing so or being aware that it was used. § 87(2)(g)

§ 87(2)(g)  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

**Allegation G: Discourtesy: At the 28th Precinct station house, an officer spoke discourteously to § 87(2)(b)**

As § 87(2)(b) was placed in the holding cell, he heard an officer – he did not know which – say, “Ain’t shit wrong with him.” All of the officers interviewed denied saying or hearing this statement made. § 87(2)(g)  
[Redacted]  
[Redacted]

**Allegation H: Abuse of Authority: At the 28th Precinct station house, an officer did not obtain medical treatment for § 87(2)(b)**

§ 87(2)(b) said that medical attention was offered to him by the holding cells but that he never received any medical attention. § 87(2)(b) could not describe the officer who offered medical attention to him. § 87(2)(b) initially could not recall what his response was to this offer of medical attention, then later said that he definitely said he wanted medical attention and never refused medical attention. § 87(2)(b) did not remember if this was before or after he heard an officer say, “Ain’t shit wrong with him.” When medical attention was offered to him at Manhattan Central Booking, § 87(2)(b) told them that he was fine because he did not want processing to be delayed. § 87(2)(b) did not seek medical treatment after the incident.

The Medical Treatment of Prisoner form notes that § 87(2)(b) had lacerations to his face and hands but refused medical attention (encl. 18x).

§ 87(2)(g)  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

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Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_

	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date